

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JACK BOYDSTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:11-CV-916-TCM
	)	
DAVE DORMIRE,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

        This matter is before the Court upon review of petitioner's amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 [Doc. #5].

        Petitioner is challenging a judgment of conviction and sentence entered on July 11 and August 16, 2005, respectively, in Pemiscot County, Missouri. After reviewing the amended petition, the Court has determined that the instant action is duplicative of a § 2254 action that petitioner filed on July 14, 2008, and which is currently pending in this Court. See Boydston v. Dormire, 4:08-CV-1039-AGF (E.D.Mo.). As a result, the instant action will be dismissed, without prejudice. If petitioner wishes to file an amended § 2254 petition relative to his Pemiscot County 2005 conviction and sentence, he should seek leave of Court by filing an appropriate motion in his pending case, Boydston v. Dormire, 4:08-CV-1039-AGF (E.D.Mo.).

Accordingly,

**IT IS HEREBY ORDERED** that the instant 28 U.S.C. § 2254 action is **DISMISSED**, without prejudice, as duplicative.

**IT IS FURTHER ORDERED** that no certificate of appealability shall issue.  
See 28 U.S.C. § 2253.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 30th day of June, 2011.

/s/ Jean C. Hamilton  
JEAN C. HAMILTON  
UNITED STATES DISTRICT JUDGE